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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,014	09/12/2003	Dean R. Shacklett	99-40132-USCON2	8588

7066 7590 02/23/2005

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EXAMINER

COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,014

Applicant(s)

SHACKLETT ET AL.

Examiner

Elizabeth M. Cole

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 1-34 and 43-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 35-42 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. Applicant's election with traverse of Group III in the reply filed on 12/2/04 is acknowledged. The traversal is on the ground(s) that it would not be a burden to examine all three groups. This is not found persuasive because the search as well as the issues involved in determining patentability would necessarily be divergent because of the different subject matter.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 35-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fokos et al, U.S. patent No. 5361960 in view of DE 4028006, and Campbell, Jr. U.S. Patent No. 5,024,128. Fokos et al '640 teaches an apparatus for cutting printed designs (col. 1, lines 13-16) which are printed on the web at a repeat length (col. 7, lines 4-7) from a web of elastic material such as paper (col. 7, lines 8-10) comprising an unwind station 16 to an in feed system 30, a die cutting cylinder 76 and a gearbox 85 which controls the position of the cylinder, (col. 9, lines 25-33), first and second sensors which sense the position of the printed designs as well as the position of the die cutting cylinder, (col. 8, lines 46-65), wherein signals are sent from the sensor to the gear box in order to correct the position of the cylinders as well as to correct for cumulative errors. Fokos teaches that slitting means can be provided in order to separate the webs, (claim 38). Fokos further teaches that the number of sensor may measure the number

of errors and correlate it to the rotation of a function cylinder such as the die cutting cylinder in order to perform corrective action on the speed of the cylinders, (col. 9, lines 48-65). While Fokos does teach measuring errors, correlating them to the movement of the die cutting cylinder and sending a correction signal to correct errors, Fokos does not teach sending the correction signal to the in feed station. DE 4028006 teaches that sensor information may also be compiled so that a signal can also be sent to the in feed station. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have sent correction signals to the in feed station as well as to the cylinders in Fokos, motivated by this expectation that this would lead to more precise cutting and handling of the web. With regard to the number of corrections which must be observed before a signal is sent, Fokos teaches that the number can be increased or decreased, depending upon the accuracy which is desired. See col. 12, line 48- col. 13, line 17.

4. Fokos differs from the claimed invention because Fokos does not teach that the die cutting cylinder's circumference should be greater than the repeat length. Campbell, Jr. teaches that the circumference of the die cutting cylinder should be greater than the repeat length in order to insure that cuts are made at the proper intervals. See col. 3, lines 64-68. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a die cutting cylinder which has a circumference greater than the repeat length in the invention of Fokos. One of ordinary skill in the art would have been motivated to employ a cylinder having a circumference which is greater than the repeat length of the pattern in order to be sure that the cuts

were made at the proper interval. With regard to claim 37, since the repeat length of the die cutting cylinder corresponds to the circumference of the cylinder and since Campbell, Jr. teaches that the circumference of the cylinder should be greater than the repeat length of the printed pattern, Campbell, Jr. therefore also teaches that the repeat length of the cylinder is greater than the repeat length of the printed pattern. While Campbell, Jr. does not specify the particular amount by which the cylinder's repeat length is greater than the pattern's, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the difference through the process of routine experimentation which produced optimum precision in the cuts which were made.

5. Claims 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fokos in view of DE '006 and Campbell as applied to claims above, and further in view of Cox, U.S. patent No. 6,612,570. Fokos differs from the claimed invention because while Fokos disclose broadly a receiving station 18, it does not disclose that it includes a conveyor and a sensor for determining when a certain number of complete items had been placed on the conveyor. Cox teaches that in an apparatus wherein items are cut and stacked employing a variable speed conveyor allows for spaces to be introduced between the stacks of material, (see col. 11, lines 42-45). It would have been obvious to have employed a variable speed conveyor as taught by Cox in the apparatus of Fokos, motivated by the expectation that this would enable separations to be formed between respective stacks of material.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.


Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c